

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

891

TP 21-00787

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

IN THE MATTER OF SPENSER MCAVOY, PETITIONER,

V

MEMORANDUM AND ORDER

CITY OF ROCHESTER AND LA'RON SINGLETARY, IN HIS
OFFICIAL CAPACITY AS CHIEF OF POLICE FOR CITY OF
ROCHESTER, RESPONDENTS.

TREVETT CRISTO, ROCHESTER (DANIEL P. DEBOLT OF COUNSEL), FOR
PETITIONER.

PULLANO & FARROW, PLLC, ROCHESTER (JEFFREY S. ALBANESE OF COUNSEL),
FOR RESPONDENTS.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by an order of the Supreme Court, Monroe County [William K. Taylor, J.], entered November 16, 2020) to review a determination of respondents. The determination, among other things, terminated petitioner's employment with the Rochester Police Department.

It is hereby ORDERED that the determination is unanimously confirmed without costs and the petition is dismissed.

Memorandum: Petitioner commenced this CPLR article 78 proceeding seeking to annul those parts of a determination following a hearing pursuant to Civil Service Law § 75 that found him guilty of the disciplinary charge of making an arrest without reasonable cause and terminated his employment as an officer with the Rochester Police Department. Contrary to petitioner's contentions, the determination with respect to that charge is supported by substantial evidence (see *Matter of Hanlon v New York State Police*, 133 AD3d 1265, 1266 [4th Dept 2015]), and the penalty is not shocking to one's sense of fairness (see *Matter of Arroyo v O'Neill*, 35 NY3d 1030, 1031 [2020]; *Hanlon*, 133 AD3d at 1266).

Entered: December 23, 2021

Ann Dillon Flynn
Clerk of the Court